

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HILTON KARRIEM MINCY,)	
)	
Plaintiff,)	Case No. 1:09-cv-236-SJM-SPB
)	
v.)	
)	
SECURITY LIEUTENANT)	
WILLIAM P. McCONNELL, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on September 10, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on November 22, 2011 [92], recommends that the Defendants' motion to dismiss [74] be granted in part and denied in part and that the Plaintiff's motion for summary judgment [77] be denied without prejudice. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at SCI-Rockview, where he is incarcerated. No objections to the Report and Recommendation have been filed to date. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 19th Day of December, 2011;

IT IS ORDERED that the Defendants' motion to dismiss [74] shall be, and hereby is, GRANTED in part and DENIED in part as follows:

1. Defendants' motion is GRANTED with respect to Plaintiff's First Amendment retaliation claim to the extent said claim is premised upon Defendant McConnell's actions in issuing an allegedly false misconduct against Plaintiff;
2. Defendants' motion is GRANTED insofar as it relates to Plaintiff's Fourteenth Amendment due process claims;
3. Defendants' motion is GRANTED insofar as it relates to Plaintiff's Fourteenth Amendment equal protection claims;
4. Defendants' motion is GRANTED insofar as it relates to Plaintiff's claim for compensatory damages; and
5. Defendants' motion is DENIED in all other respects.

IT IS FURTHER ORDERED that the Plaintiff's motion for summary judgment [77] shall be, and hereby is, DENIED without prejudice to be reasserted upon a more fully developed record.

The Report and Recommendation of Magistrate Judge Baxter, filed on November 22, 2011 [92], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter